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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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07/942,973 09/10/92 CATALDI

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J. JEFFREY HAWLEY
PATENT DEPARTMENT
EASTMAN KODAK COMPANY
343 STATE STREET
ROCHESTER, NEW YORK 14650-2201

R 13/16330
EXAMINER
WIEDER, K

ART UNIT	PAPER NUMBER
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2607

DATE MAILED:

05/06/93

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☒ Responsive to communication filed on 2/17/93 ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- ☒ Notice of References Cited by Examiner, PTO-892
- ☒ Notice re Patent Drawing, PTO-948.
- ☒ Notice of Art Cited by Applicant, PTO-1449. (2)
- ☐ Notice of Informal Patent Application, Form PTO-152.
- ☐ Information on How to Effect Drawing Changes, PTO-1474.
- ☐ _____

Part II SUMMARY OF ACTION

1. ☒ Claims 1-40 are pending in the application.

Of the above, claims _____ are withdrawn from consideration.

2. ☐ Claims _____ have been cancelled.

3. ☐ Claims _____ are allowed.

4. ☒ Claims 1-40 are rejected.

5. ☐ Claims _____ are objected to.

6. ☐ Claims _____ are subject to restriction or election requirement.

7. ☒ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. ☐ Formal drawings are required in response to this Office action.

9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable. ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948).

10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____ has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).

11. ☐ The proposed drawing correction, filed on _____, has been ☐ approved. ☐ disapproved (see explanation).

12. ☐ Acknowledgment is made of the claim for priority under U.S.C. 119. The certified copy has ☐ been received ☐ not been received
☐ been filed in parent application, serial no. _____; filed on _____

13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. ☐ Other

EXAMINER'S ACTION

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1. The protest letter of January 6, 1993 and applicants response thereto have both been carefully considered. Applicant is reminded that this application cannot pass to issue until disposition of the parent application which is in interference proceedings, see letter mailed April 16, 1993 and MPEP 1111.08.
2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.
3. Applicant is reminded of the proper language and format of an Abstract of the Disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 250 words. It is important that the abstract not exceed 250 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said", should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract is replete with legal phraseology.

4. The Preliminary amendment of October 29, 1992 (paper No. 3) has not been entered because in claim 1, last line there is no term "housing".
5. The original patent, or an affidavit or declaration as to loss or inaccessibility of the original patent, must be received

before the reissue application can be allowed. See 37 CFR 1.178.

6. The reissue oath or declaration filed with this application is defective because it fails to contain a statement that the applicant believes the original patent to be wholly or partially inoperative or invalid, as required under 37 C.F.R.

§ 1.175(a)(1).

7. The reissue oath or declaration filed with this application is defective because it fails to particularly specify the errors relied upon, as required under 37 C.F.R. § 1.175(a)(5).

8. The reissue oath or declaration filed with this application is defective because it fails to particularly specify how the errors relied upon arose or occurred, as required under 37 C.F.R. § 1.175(a)(5).

The declaration fails to specify errors and how they arose concerning claims 11, 12, 17 and 19. Furthermore, P. Hein and J. Leo have not signed the declaration.

9. Claims 1-40 are rejected as being based upon a defective reissue declaration under 35 U.S.C. § 251. See 37 C.F.R.

§ 1.175.

10. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary

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skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

11. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. § 103, the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 C.F.R. § 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of potential 35 U.S.C. § 102(f) or (g) prior art under 35 U.S.C. § 103.

12. Claims 1-40 are rejected under 35 U.S.C. § 103 as being unpatentable over Burroughs et al (5,015,544) in view of Kiernan et al (4,723,656) and Parker (4,737,020).

Burroughs et al disclose a battery voltmeter comprising dielectric layers, conductive layers, and temperature sensitive layers in an indicating arrangement 10 attached to battery ^{can} ~~can~~ 18, see Figure 2. Burroughs et al disclose all of applicants claimed subject matter except for thermal insulative means and the particular sequencing of the layers of the indicating arrangement. Kiernan et al and Parker are applied for showing these features respectively.

13. Kiernan et al disclose a battery package having a voltmeter therein of similar arrangement as that of the instant application

and Burroughs et al. Kiernan et al differs in that the voltmeter is not permanently affixed to the battery "can". Kiernan et al does teach, however, means to thermally insulate the voltmeter from the battery to prevent or at least reduce heat sinking, see column 5, last paragraph. As heat sinking through the battery would lessen the accuracy of the thermal indicating material.

14. Since Burroughs et al also use heat sensitive materials as indicating materials it would have been obvious for one having ordinary skill in the art to provide some type of thermal insulating means in the Burroughs et al voltmeter to improve its accuracy in view of the suggestion by Kiernan et al.

15. Parker is applied for teaching that the sequential order of layers is immaterial for the operation of the device, see column 7, lines 16-20.

16. Consequently, it would have been obvious for one having ordinary skill in the art to provide a thermally insulative means and to sequence the layers in any desired fashion so as to provide operability in view of the respective teachings of Kiernan et al and Parker.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ken Wieder whose telephone number is (703) 305-4707.

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Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-4900.

K. Wieder:klw
May 04, 1993
(703) 305-4707

Kenneth A. Wieder
KENNETH A. WIEDER
SUPERVISORY PATENT EXAMINER
ART UNIT 267A